

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

RENEE M. BUTZ,)
)
Plaintiff,)
)
v.) Civ. No. 05-495-JJF
) Judge Joseph J. Farnan Jr.
LAWNS UNLIMITED LTD. and)
EDWARD FLEMING,)
)
Defendants.)

**PLAINTIFF'S RESPONSE TO
DEFENDANTS' MOTION TO EXTEND DISCOVERY**

Plaintiff, Renee M. Butz, hereby responds to Defendants' Motion to extend the discovery period in this proceeding as follows:

1. Plaintiff has no objection to the statements made in paragraph 1.
2. Plaintiff has no objection to the statements made in paragraph 2.
3. Plaintiff has no objection to the statements made in paragraph 3.
4. Defendant is incorrect in stating that no discovery has yet been taken. Plaintiff filed Interrogatories, Requests for Production of Documents, and Requests for Admission with the Court on September 27, 2006. (D.I. 21-24).
5. Plaintiff has no objection to the statements made in paragraph 5.
6. Due to defendants' failure to respond to plaintiff's discovery requests in a timely manner as required under the Rules, plaintiff's preparation for trial has been delayed.

7. Plaintiff objects to defendants' proposal that the discovery period be restarted and that any previously-filed discovery requests be re-filed. To allow defendants' request would be to the prejudice of plaintiff.

As plaintiff understands the Local Rules, a party is required to respond to opposing discovery requests within a set time period. In failing to respond within that period, the answering party forfeits the right to raise any objection to the discovery request and, any requests for admission are now deemed admitted by that failure to respond. Plaintiff previously raised this objection at the time previous counsel for defendants requested an extension within which to respond to plaintiffs' discovery requests. By letter dated October 27, 2006, a copy of which was sent to the Court, plaintiff granted defendants additional time to respond, but not to object, to plaintiffs' discovery requests. (D.I. 32).

Plaintiff is attempting to play by the rules. She timely filed her discovery in compliance with the Court's Scheduling Order. Defendants then requested and plaintiff permitted an extension for defendant's to respond to her discovery. Defendants made no attempt to respond to that discovery. Furthermore, on repeated occasions, defendants denied availability for depositions until January 2007. Since the entry of the original Scheduling Order by Chief Judge Robinson, defendants have played little to no part in this action. Plaintiff should not now be prejudiced by allowing defendants, who, through substitution of counsel, now wish to actively defend the claims and seek to have previously waived defenses now made available to them through a motion to extend the discovery period and for re-service of plaintiff's previously-filed discovery. Plaintiff is unwilling to allow defendants' to regain any rights previously forfeited by their failures to adhere to Local Court Rules with regard to discovery matters.

8. Plaintiff agrees that she spoke with Ms. DiBianca on November 12, 2006, but objects to the statement that "Plaintiff concurred that it would be most preferable to reopen discovery." Plaintiff indicated to counsel that she would be willing to discuss the status of discovery and other matters during a status conference call with the court. (D.I.33). Plaintiff maintains this position at this time.



Renee M. Butz
58 Hickory Drive
North East, MD 21901
(410) 441-4300
Plaintiff pro se

Dated: 12-15-06

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AFFIDAVIT OF SERVICE

I hereby affirm that a true and correct copy of the foregoing Response to Defendants' Motion to Extend Discovery was sent by email and by first-class United States mail, postage duly paid, on this 15th day of December, 2006, to the following:

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Plaintiff pro se

Dated: 12-15-06